IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 235 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHAMBHU TEXTILE MILLS PVT. LTD.

Versus

UNION OF INDIA

Appearance:
MR PARESH M DAVE for Petitioners
MR MUKESH R SHAH for Respondents

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 10/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. Rule. Mr. M.R. Shah, learned Additional Central Government Standing Counsel, appears and waives service of rule on behalf of the respondents. Upon the request of the learned counsel for the parties, the matter is taken up for final hearing today.

2. By this petition, the main relief sought by the petitioner company is to direct the respondent authority to refund the amounts of Rs.5,65,912/- and Rs.8,21,454/-, with interest, in accordance with law, in view of the fact that the appeal, at the instance of the petitioners, came to be allowed, quashing the orders of the Assistant Commissioner, against which the matter is pending before the Central Excise and Gold (Control) Appellate Tribunal ('CEGAT' for short) and during the pendency of the appeal before the CEGAT, the stay application filed by the respondent authority has been rejected.

3. Our attention has been drawn to the circular dated 2.6.1998, of the respondent authority in relation to the subject of expeditious disposal of the refund and rebate claims of the assessees.

4. After hearing the learned counsel appearing for the parties and considering the facts and circumstances of the case and also the aforesaid circular, since, admittedly, during the pendency of the appeal before the CEGAT the stay application has been rejected, the respondent authority is directed to refund the aforesaid amounts within a period of 15 days from today, in accordance with law, which will be subject to the decision that may, finally, be rendered in the appeal pending before the CEGAT.

5. With these observations and directions, the petition is, partly, allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(J. N. Bhatt,J.)

10.4.2001. (A.M. Kapadia, J.)

(karan)